

REMARKS

Provisional Election, With Traverse:

Applicant respectfully expressly traverses the restriction requirement dated September 14, 2005. However, Applicant provisionally elects, *with traverse*, to prosecute the invention of Group I, claims 1-23. More particularly, Applicant respectfully traverses this restriction between Group I (system claims 1-23) and Group II (method claims 24-32). Applicant's grounds for traversal are detailed below. Applicant hereby cancels the claims 33-50 (Groups III, IV, V, and VI), but expressly reserves the right to re-introduce such claims during prosecution of the present patent application or in one or more divisional patent applications.

Grounds for Traversal:

As grounds for restricting between the apparatus of Group I, and the method of Group II, the Restriction Requirement alleged that Groups (I, III, IV, and VI) and Groups (II, V) are related as process and apparatus for its practice. (*See* Restriction Requirement ¶ 2.) The restriction between such groups was based on the premise that "the method could be performed by an external device that communicates with an implantable medical device." (*See id.*).

Applicant respectfully disagrees with this premise. Comparing claims 1 and 24, for example, while Applicant agrees that portions of the method of claim 24 could be performed by an external device, other portions of the method of claim 24 will indeed be performed by the implantable device. Therefore, the entire method could not be performed by an external device that communicates with the implantable medical device. Conversely, dependent system claim 13 of Group I, for example, also recognizes that portions of the system could include an external device. Accordingly, Applicant respectfully submits that the Examiner's burden of establishing a materially different process has not been met.

Alternatively, Applicant has added linking means-plus-function claim 51, corresponding to independent method claim 24. Applicant respectfully submits that, in accordance with MPEP § 806.05(e), such a linking claim 51 *must be examined* along with the elected claims of Group I and, if linking claim 51 is found allowable, then the method claims 24-32 of Group II must be

rejoined. (See MPEP §§ 806.05(e) and 809.04.)

In sum, Applicant respectfully requests withdrawal of the restriction between Groups I and II, and examination of the claims of Group II and newly added claims together with the examination of the provisionally-elected Group I claims.

New Claims:

Applicant has added linking means-plus-function claim 51, which links Groups I and II. Applicant has also added new claims 52-55 to more particularly point out and distinctly claim certain aspects of the subject matter of Group I. Applicant has added new claim 56 to more particularly point out and distinctly claim certain aspects of the subject matter of Group II. As a result, claims 1-32 and 51-56 are now pending in this case. Applicant respectfully requests examination of such pending claims.

Conclusion

Applicant respectfully submits that the pending claims 1-32 and 51-56 are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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By

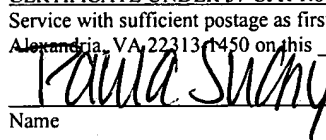


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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, MS: Amendment, P.O. Box 1450, Alexandria, VA 22313-1450 on this 14 day of October, 2005.

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